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CITY OF SANTA CRUZ

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION,

- and -

PACIFIC GAS AND ELECTRIC
COMPANY,

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

** All papers shall be filed in the Lead Case,
No. 19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**CITY OF SANTA CRUZ'S OPPOSITION TO
REORGANIZED DEBTORS' SIXTY-SECOND
OMNIBUS OBJECTION TO CLAIMS (BOOKS
AND RECORDS CLAIMS)**

[Related to Dkt. No. 10287]

Hearing Information:

Date: April 7, 2021
Time: 10:00 a.m. (Pacific Time)
Place: (Telephonic Appearances Only)
United States Bankruptcy Court
Courtroom 17, 16th Floor
San Francisco, CA 94102

The CITY OF SANTA CRUZ ("CITY"), a claimant in the above-referenced case, by and through its undersigned counsel, submits this Opposition to the Reorganized Debtors' Sixty-Second Omnibus Objection to Claims (Books and Records) [Dkt. No. 10287], as it relates to CITY's Proof of Claim No. 2838 filed herein. This Opposition is filed in accordance with this court's Order Approving (A) Procedures

1 for Filing Omnibus Objections to Claims and (B) the Form and Manner of Notice of Omnibus Objections
2 filed in this case on June 30, 2020. [Dkt. No. 8228]

3 In support of its Opposition, the CITY provides the following information:

4 **Claimant's Name:** The City of Santa Cruz

5 **Designated Proof of Claim Number:** 2838

6 **Explanation for the Amount of CITY's Claim**

7 The CITY timely filed its Proof of Claim ("POC"), herein, number 2838, on April 29, 2019 in the
8 total amount of \$32,423.64. The CITY's claim is based on fees for street opening permits, water services,
9 returned checks, and license agreement fees for PG&E's use of CITY property to perform its staging
10 activities. Since filing the POC, PG&E has made payments totaling \$13,719.00 in connection with
11 amounts owed for street opening permits. In addition, PG&E has paid \$487.86 for water services provided
12 by the CITY. Therefore, at this point, the amount owing to the CITY is \$18,216.78, consisting of unpaid
13 license agreement fees and a returned check fee.

14 On or about September 6, 2018, the CITY entered into a temporary license agreement (the
15 "Letter Agreement") with PG&E for the right to enter and use the CITY's property for staging purposes
16 for emergency PG&E maintenance, known as the Scotts Valley Skypark, 361 Kings Village Road,
17 Assessor's Parcel Numbers 022-721-07-000, 022-721-08-000, and 022-721-09-000 (the "Property").
18 See Declaration of Debra Allen in Support of the City of Santa Cruz's Opposition to the Reorganized
19 Debtors' Sixty-Second Omnibus Objection to Claims (Books and Records) ("D. Allen Decl.") ¶ 4, filed
20 concurrently herewith and the Letter Agreement which is attached thereto as Exhibit A). In or about
21 November 2018, the CITY and PG&E amended the Letter Agreement to provide for compensation
22 related to the use of the Property. (D. Allen Decl., ¶ 5, Ex. B). In or about March 2019, the City issued
23 an invoice to PG&E for payment related to use of the Property from December 10, 2018 until January
24 29, 2019, totaling \$18,214.28. (D. Allen Decl., ¶ 8, Ex. D). To this point, PG&E has not paid its
25 outstanding invoice owed to the CITY.

26 **Reasons Why the Bankruptcy Court Should Not Sustain the Omnibus Objection**

27 The CITY's timely filed claim is *prima facie* valid, and allowed in this case, unless and until
28 PG&E carries its initial burden of demonstrating otherwise. It is settled law that a proof of claim

1 constitutes prima facie evidence of the validity and the amount of claim. *See Lundell v. Anchor Constr.*
2 *Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). The evidentiary presumption created by a proof of
3 claim is strong enough to carry over a mere formal objection, without more. *See In re Holm*, 931 F2d
4 620, 623 (9th Cir. 1991). Accordingly, in response to a proof of claim, the “burden of going forward
5 shifts to the objector to produce evidence sufficient to negate the prima facie validity of the filed claim.”
6 *In re Consolidated Pioneer Mortg.*, 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995) (quoting *In re Allegheny*
7 *International, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). It is only then that the burden reverts to the
8 claimant to prove the validity of the claim by a preponderance of the evidence. If the objector fails to
9 meet this burden, the claim should be allowed without any evidentiary burden to the claimant. *See*
10 *Lundell*, 233 F.3d at 1041.

11 The CITY submits that PG&E has failed to satisfy its burden of proof. PG&E’s omnibus
12 objection is devoid of any facts directly relevant to the CITY’s individual claim. Rather, the omnibus
13 objection merely states that PG&E has reviewed its books and records and does not see a debt owed to
14 the CITY, nor to numerous other claimants. Even if PG&E had proffered such evidence, the admissible
15 evidence filed by the CITY in support of its Opposition, through the declaration of Debra Allen (the “D.
16 Allen Decl.”), demonstrates the validity and enforceability of the CITY’s claim. This evidence clearly
17 shows that PG&E acknowledged its liability to the CITY but ceased efforts to fulfill its payment
18 obligations with the commencement of PG&E’s bankruptcy case.

19 **Other Information**

20 Notices and/or replies should be sent to the undersigned at:

21 Barbara H. Choi, Senior Deputy City Attorney
22 ATCHISON, BARISONE & CONDOTTI
23 A Professional Corporation
24 PO Box 481
Santa Cruz, CA 95061
(831) 423-8383

25 In addition to the above, the person with authority to reconcile, settle, or otherwise resolve the
26 Omnibus Objection on the Claimant’s behalf is:

Debra Allen
City of Santa Cruz
Collections Specialist
333 Front Street, Suite 200
Santa Cruz, Ca 95060-4533
(831) 420-5052

Conclusion

For the foregoing reasons, the CITY respectfully requests that this Court deny the relief requested in the Objection and allow CITY's Claim against PG&E in the amount of \$18,216.78.

ATCHISON, BARISONE & CONDOTTI, APC

Dated: March 23, 2021

By: /s/ Barbara H. Choi
BARBARA H. CHOI, Senior Deputy City Attorney
Attorneys for Creditor City of Santa Cruz